




State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Emergency Medical Transportation Services – Ambulance Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 4). A public hearing was held on May 26, 2016 at which only the Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the July 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Emergency Medical Transportation Services
Ambulance Licensing Standards
(LAC 48:I.6037)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.6037 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1231 and R.S.40:1235.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

In order to comply with the directives of House Concurrent Resolution (HCR) 92 of the 2015 Regular Session of the Louisiana Legislature, which directed the department to amend the provisions governing the licensing standards for ambulance service providers to establish protocols relative to the assessment and transport of patients with cardiac and stroke emergencies, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing standards for emergency medical transportation services (*Louisiana Register*, Volume 41, Number 10).

The department has now determined that it is necessary to amend the provisions governing the licensing standards for

emergency medical transportation services in order to further clarify these provisions.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 60. Emergency Medical Transportation Services

Subchapter B. Provider Responsibilities

§6037. Medical Protocol

A. - C.21. ...

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network (LERN) or develop an agency specific protocol with specific language related to the transportation of the following patients:

1. Acute stroke patients shall be transported to the closest appropriate primary stroke center, acute stroke ready hospital, or closest appropriate hospital if the patient exhibits a compromise of airway, breathing or circulatory function, or other potential life threatening emergency as defined by the protocols implemented by the ambulance service's medical director. Acute stroke patients may also be diverted to the closest appropriate hospital by order of LERN or online medical control from the local facility, potential receiving facility or medical director.

2. ...

3. In any case where the treating emergency medical technician's evaluation, according to protocol, indicates a potentially unstable condition or potential medical emergency that, if traveling the extra distance to the recommended appropriate facility could put the patient at higher risk, the emergency medical technician in his/her discretion may divert to the nearest appropriate facility.

E. - E.4. ...

F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

1. Treatment decisions shall be considered given the current health status of the patient in conjunction with all of the associated risks factors including, but not limited to, distance to the nearest stroke facility.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:476 (March 2009), amended LR 41:2153 (October 2015), LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on

the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will aid in improving mortality outcomes and reducing disability occurrences by providing vital emergency medical transportation services for cardiac and stroke patients.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who incur costs associated with cardiac and stroke emergencies since these provisions are expected to improve the health outcomes of cardiac and stroke patients.

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

May 26, 2016

9:30 a.m.

RE: Emergency Medical Transportation Services
Ambulance Licensing Standards
Docket # 05262016-1
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 26, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

05/26/16

Date

DHH/BHSF PUBLIC HEARING

Topic – Emergency Medical Transportation Services Ambulance Licensing Standards

Date – May 26, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. <i>Connette Scott</i>	<i>Dept. of Health & Hospitals 628 N. 4th Street Butler, Range LA 70802</i>	<i>225-342-3881</i>	<i>Medicaid Policy & Compliance</i>
2. <i>Brenda Blanchard</i>	<i>NSS (DNN)</i>	<i>342-2471</i>	<i>NSS</i>
3. <i>Joyce Erwin</i>	<i>DH4 INSL</i>	<i>342-2449</i>	<i>HHS</i>
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary *Approved for*

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medicaid Eligibility – Federally-Facilitated Marketplace Determinations.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 4). A public hearing was held on May 26, 2016 at which only the Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the July 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility Federally-Facilitated Marketplace Determinations (LAC 50:III.505)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Patient Protection and Affordable Care Act (ACA) of 2010 requires that all applicants for coverage through the federal health insurance marketplace be assessed for eligibility in other government programs, including Medicaid. States are required to select a marketplace model that is state-based, federally-facilitated or working in partnership with the federal marketplace. States with a federally-facilitated marketplace (FFM), like Louisiana, must elect to either have the FFM make assessments of Medicaid eligibility and transfer the account to the state Medicaid agency for a final determination, or delegate the authority to make Medicaid eligibility determinations to the FFM. Initially, Louisiana elected to become a determination state and accepted eligibility determinations made by the FFM.

In August 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing Medicaid eligibility in order to become an assessment state and only accept eligibility assessments from the FFM (*Louisiana Register*, Volume 41, Number 8). The department has now determined that it is necessary to amend the provisions governing Medicaid eligibility in order to return to a determination state and accept Medicaid eligibility determinations made by the FFM.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 5. Application Processing

§505. Federally-Facilitated Marketplace Determinations

A. Effective April 20, 2016, Louisiana Medicaid will delegate its Medicaid eligibility determination authority to the federally-facilitated marketplace (FFM) in order to begin accepting eligibility determinations made by the FFM for only those individuals who apply for healthcare coverage through the FFM. This action will result in the state becoming a determination state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1489 (August 2015), amended LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to

provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

May 26, 2016

9:30 a.m.

RE: Medicaid Eligibility – Federally-Facilitated
Marketplace Determinations
Docket # 05262016-2
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 26, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

05/26/16

Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility – Federally – Facilitated Marketplace Determinations

Date – May 26, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge LA 70802	225-342-3881	Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			



State of Louisiana
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June 6, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
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FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medical Transportation Program - Non-Emergency Medical Transportation.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 4). A public hearing was held on May 26, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given, however written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the July 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification;
3. the public hearing attendance roster;
4. summary of all written comments received; and
5. agency response to Ellen Katz.

REG/WJR/RKA

Attachments (5)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII:Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amend LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing non-emergency medical transportation (NEMT) (*Louisiana Register*, Volume 20, Number 10). The department promulgated an Emergency Rule which repealed the October 20, 1994 Rule in order to revise the provisions governing NEMT services, and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule also amended the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with

a monthly per trip payment methodology (*Louisiana Register*, Volume 40, Number 10). The department promulgated an Emergency Rule which amended the October 1, 2014 Emergency Rule in order to further clarify these provisions to bring the language of this Rule into compliance with the approved Medicaid State Plan, and to incorporate provisions governing appeals rights for denials and partial denials of NEMT services (*Louisiana Register*, Volume 41, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and

2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical or behavioral health service provider currently enrolled in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical or behavioral health appointment(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;
2. family and friends who meet the state license and insurance requirements and who are willing to:
 - a. enroll in the Medicaid Program; and
 - b. be paid a published rate for providing non-emergency transportation;
3. intrastate public conveyance (such as bus, train or plane);
4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and
5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical or behavioral health providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the

department will still pay for the actual medical or behavioral health service received outside the community in which the recipient resides does not obligate the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical or behavioral health provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements, the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical or behavioral health services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical or behavioral health condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical or behavioral health services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department

will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical or behavioral health care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical or behavioral health condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$100,000 per person and \$300,000 per accident or a \$300,000 combined service limits policy.

1. The liability policy shall cover any and all:

- a. autos;
- b. hired autos; and
- c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must

be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and

shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy

or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical or behavioral health needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

\$573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the

number of authorized trips within a given month. Each trip will then be reimbursed separately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the

provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary




State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
May 26, 2016
9:30 a.m.

RE: Medical Transportation Program
Non-Emergency Medical Transportation
Docket # 05262016-4
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 26, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Cedric Clark
Medicaid Policy and
Compliance Section

05/26/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility – Non-Emergency Medical Transportation

Date – May 26, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Medical Transportation Program - Non-Emergency Medical Transportation
Public Hearing Date: May 26, 2016
Docket No. : 05262016-4
Conducted By: Department of Health and Hospitals, Bureau of Health Services Financing Staff

Written Comments Received From	Mode of Receipt	Summary of Comments (April 20, 2016 Notice of Intent)
Ellen Katz, Managing Attorney, Advocacy Center	Medicaid Policy Email Account	<p>Concerned that following provisions of the Rule does not protect the legal rights of beneficiaries and attendants:</p> <ol style="list-style-type: none"> 1. recommends that the Rule clarify that the provider is responsible for the travel expenses of the beneficiaries and eligible expenses listed. 2. recommends that the Rule clarify that providers are responsible for the reimbursement of expenses for the attendant and attendant for children and to specify a parent, legal guardian or responsible person must accompany children under the age of 17; 3. believes the language concerning same day trips contradicts the Medical Transportation Manual and that the department consider authorizing same day trips in some circumstances. 4. recommends that the right to request a fair hearing of denials of travel expenses extends to those expenses for attendants; and 5. recommends that the Rule include language that providers must comply with all requirements of the Americans with Disabilities Act .



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

June 9, 2016

Ellen Katz
Advocacy Center
8325 Oak Street
New Orleans, LA 70118

Dear Ms. Katz:

**RE: Notice of Intent for Medical Transportation Program
Non-Emergency Medical Transportation**

This letter is in response to your correspondence regarding the Notice of Intent for Medical Transportation Program – Non-Emergency Medical Transportation which was published in the April 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent continues the provisions of the October 1, 2014 and the May 20, 2015 Emergency Rules which repealed the October 20, 1994 Rule governing non-emergency medical transportation (NEMT) services in order to revise the provisions governing NEMT services, amend the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology, incorporate provisions governing appeals rights for denials and partial denials of NEMT services, and to promulgate the provisions in a codified format to ensure they are appropriately included in the *Louisiana Administrative Code*.

We greatly appreciate your interest and continued concern for Medicaid beneficiaries and share your desire to ensure access to transportation services for this population. We have provided responses to each of your comments below. In most cases we are confident that the Department can address your concerns without making further changes to the Rule.

Responses to recommendations:

Reimbursement for the Beneficiary

Rule: §565. General Provisions (A - D.)

We recommend clarifying that it is the provider who is responsible for the travel expenses of beneficiaries, with the following sentence.

Providers are responsible for the travel expenses of beneficiaries.

Typically NEMT providers are not responsible for meals and lodging of their clients. Meals and lodging reimbursement for Medicaid recipients is typically provided as needed by the Department or a Medicaid managed care organization (MCO). Therefore, we do not believe a change to this section is necessary.

Moreover, the term, "travel expenses" should be defined in accordance with federal regulations. We suggest adding E., as follows.

E. Travel expenses include the cost of the beneficiary's transportation, meals, and lodging en route to and from medical care, and while receiving medical care. 42 CFR 440.170(a)(3)(i) and (ii).

The Department recognizes the definition of "travel expenses" as defined by the *Code of Federal Regulations* (CFR) and actively provides reimbursement in accordance with this policy. Further, the Department has instructed MCOs to use this definition in providing these services to their membership. Please refer to Health Plan Advisory 15-5 "NEMT Meals and Lodging" which can be found on the Healthy Louisiana website at <http://new.dhh.louisiana.gov/index.cfm/page/1734>. At this time, it is not necessary to make additional changes to the proposed Rule in order to assure compliance with the CFR.

The Medical Transportation Provider Manual states that children under the age of 17 must have an attendant. We suggest adding G., as follows.

G. A parent, legal guardian, or responsible person must accompany children under the age of 17. The provider is responsible for the attendant's travel expenses, as stated in F.

The Department recognizes without question that children, as well as many adults with special needs, require an attendant for travel. We are confident that the contractual requirements with Medicaid MCOs, as well as requirements stipulated in published provider manuals, are sufficient to make transportation services available to members and their attendants who rely on it. At this time, it is not necessary to make additional changes to the proposed Rule.

Same Day Trips

Rule §505. I.

Language contradicts the policy in the Medical Transportation Manual, and should be deleted. (*Medical Transportation Provider Manual, Chapter Ten of the Medicaid Services Manual, Section 10.2: NEMT - Services Access/Authorization, Page 4.*) We suggest that it be replaced with the following sentence.

When a recipient calls for same day service, the TDO will attempt to schedule the trip.

While the Department does not view this language as a contradiction, NEMT program staff will amend the provider manual to clarify this policy. The Medicaid program requires at least 48 hours of notice to schedule transportation. Last minute requests for transportation to medical appointments are administratively burdensome for providers, transportation vendors and for the Department. Therefore, these trips represent an increased cost to the public and it is necessary to prioritize individuals who have immediate medical needs.

We also suggest that the Department give consideration to a cost-saving policy change. In order to reduce the additional cost of an unnecessary extension of hospital and/or facility care, we recommend the following addition.

Same day trips shall be authorized for beneficiaries being discharged from hospitals or other facilities.

The Department concedes that time of discharge from hospitals or other medical facilities are often not known until the day of discharge and intends to clarify these provisions at a later date after giving more consideration to this matter.

Recipient/Attendant Appeals

Rule: §523.A.

In order to assure that the legal rights of beneficiaries and attendants are protected, we suggest that the following sentence be added.

The right to request a fair hearing of denials of travel expenses extends to those expenses for their attendants.

Rule: §523.B.

In order to assure that the legal rights of beneficiaries and attendants are protected, we suggest that the following sentence be added.

The right to request a fair hearing of denials of travel expenses extends to those expenses for their attendants.

The Department recognizes the need, in many cases, for an attendant to accompany Medicaid recipients when traveling to and from medical appointments. Since travel for an attendant is included as a "travel expense", we believe it is understood that, should service for an attendant be denied, a request for fair hearing would be honored. The Department will revisit this issue if we are made aware of evidence to the contrary.

Provider Enrollment

§541A.

In order to assure legally required accessible transport, we strongly recommend that the following language be added.

Providers must comply with all requirements of the Americans with Disabilities Act (ADA), including 42 USC 12812(b)(2)(C), and its implementing regulations, including 49 CFR 37.105. This includes the requirement that it is the responsibility of the provider, not the beneficiary, to have accessible vehicles. Accessible transport must be available on an equivalent basis as non-accessible transport.

The recommended language may be construed to require all NEMT providers to have wheelchair accessibility. It is not the intent of the Department to make wheelchair accessibility a requirement of all NEMT providers. The majority of Medicaid beneficiaries who utilize these services are ambulatory and require only a standard vehicle. Requiring all transportation providers to have wheelchair accessibility would create a hardship for those providers and possibly limit the availability of standard transport for non-wheelchair recipients.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jen Steele".

Jen Steele
Medicaid Director

CC/DAB/VYD

c: Jode Burkett
Lou Ann Owen




State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medical Transportation Program - Non-Emergency Medical Transportation.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 4). A public hearing was held on May 26, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given, however written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the July 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification;
3. the public hearing attendance roster;
4. summary of all written comments received; and
5. agency response to Ellen Katz.

REG/WJR/RKA

Attachments (5)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII:Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amend LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing non-emergency medical transportation (NEMT) (*Louisiana Register*, Volume 20, Number 10). The department promulgated an Emergency Rule which repealed the October 20, 1994 Rule in order to revise the provisions governing NEMT services, and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule also amended the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with

a monthly per trip payment methodology (*Louisiana Register*, Volume 40, Number 10). The department promulgated an Emergency Rule which amended the October 1, 2014 Emergency Rule in order to further clarify these provisions to bring the language of this Rule into compliance with the approved Medicaid State Plan, and to incorporate provisions governing appeals rights for denials and partial denials of NEMT services (*Louisiana Register*, Volume 41, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and

2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical or behavioral health service provider currently enrolled in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical or behavioral health appointment(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;
2. family and friends who meet the state license and insurance requirements and who are willing to:
 - a. enroll in the Medicaid Program; and
 - b. be paid a published rate for providing non-emergency transportation;
3. intrastate public conveyance (such as bus, train or plane);
4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and
5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical or behavioral health providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the

department will still pay for the actual medical or behavioral health service received outside the community in which the recipient resides does not obligate the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical or behavioral health provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements, the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical or behavioral health services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical or behavioral health condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical or behavioral health services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department

will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical or behavioral health care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical or behavioral health condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$100,000 per person and \$300,000 per accident or a \$300,000 combined service limits policy.

1. The liability policy shall cover any and all:

- a. autos;
- b. hired autos; and
- c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must

be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and

shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy

or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical or behavioral health needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the

number of authorized trips within a given month. Each trip will then be reimbursed separately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the

provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



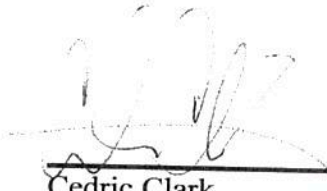
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
May 26, 2016
9:30 a.m.

RE: Medical Transportation Program
Non-Emergency Medical Transportation
Docket # 05262016-4
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 26, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Cedric Clark
Medicaid Policy and
Compliance Section

05/26/16

Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility – Non-Emergency Medical Transportation

Date – May 26, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Medical Transportation Program - Non-Emergency Medical Transportation
Public Hearing Date: May 26, 2016
Docket No. : 05262016-4
Conducted By: Department of Health and Hospitals, Bureau of Health Services Financing Staff

Written Comments Received From	Mode of Receipt	Summary of Comments (April 20, 2016 Notice of Intent)
Ellen Katz, Managing Attorney, Advocacy Center	Medicaid Policy Email Account	<p>Concerned that following provisions of the Rule does not protect the legal rights of beneficiaries and attendants:</p> <ol style="list-style-type: none">1. recommends that the Rule clarify that the provider is responsible for the travel expenses of the beneficiaries and eligible expenses listed.2. recommends that the Rule clarify that providers are responsible for the reimbursement of expenses for the attendant and attendant for children and to specify a parent, legal guardian or responsible person must accompany children under the age of 17;3. believes the language concerning same day trips contradicts the Medical Transportation Manual and that the department consider authorizing same day trips in some circumstances.4. recommends that the right to request a fair hearing of denials of travel expenses extends to those expenses for attendants; and5. recommends that the Rule include language that providers must comply with all requirements of the Americans with Disabilities Act .



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

June 9, 2016

Ellen Katz
Advocacy Center
8325 Oak Street
New Orleans, LA 70118

Dear Ms. Katz:

**RE: Notice of Intent for Medical Transportation Program
Non-Emergency Medical Transportation**

This letter is in response to your correspondence regarding the Notice of Intent for Medical Transportation Program – Non-Emergency Medical Transportation which was published in the April 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent continues the provisions of the October 1, 2014 and the May 20, 2015 Emergency Rules which repealed the October 20, 1994 Rule governing non-emergency medical transportation (NEMT) services in order to revise the provisions governing NEMT services, amend the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology, incorporate provisions governing appeals rights for denials and partial denials of NEMT services, and to promulgate the provisions in a codified format to ensure they are appropriately included in the *Louisiana Administrative Code*.

We greatly appreciate your interest and continued concern for Medicaid beneficiaries and share your desire to ensure access to transportation services for this population. We have provided responses to each of your comments below. In most cases we are confident that the Department can address your concerns without making further changes to the Rule.

Responses to recommendations:

Reimbursement for the Beneficiary

Rule: §565. General Provisions (A - D.)

We recommend clarifying that it is the provider who is responsible for the travel expenses of beneficiaries, with the following sentence.

Providers are responsible for the travel expenses of beneficiaries.

Typically NEMT providers are not responsible for meals and lodging of their clients. Meals and lodging reimbursement for Medicaid recipients is typically provided as needed by the Department or a Medicaid managed care organization (MCO). Therefore, we do not believe a change to this section is necessary.

Moreover, the term, "travel expenses" should be defined in accordance with federal regulations. We suggest adding E., as follows.

E. Travel expenses include the cost of the beneficiary's transportation, meals, and lodging en route to and from medical care, and while receiving medical care. 42 CFR 440.170(a)(3)(i) and (ii).

The Department recognizes the definition of "travel expenses" as defined by the *Code of Federal Regulations* (CFR) and actively provides reimbursement in accordance with this policy. Further, the Department has instructed MCOs to use this definition in providing these services to their membership. Please refer to Health Plan Advisory 15-5 "NEMT Meals and Lodging" which can be found on the Healthy Louisiana website at <http://new.dhh.louisiana.gov/index.cfm/page/1734>. At this time, it is not necessary to make additional changes to the proposed Rule in order to assure compliance with the CFR.

The Medical Transportation Provider Manual states that children under the age of 17 must have an attendant. We suggest adding G., as follows.

G. A parent, legal guardian, or responsible person must accompany children under the age of 17. The provider is responsible for the attendant's travel expenses, as stated in F.

The Department recognizes without question that children, as well as many adults with special needs, require an attendant for travel. We are confident that the contractual requirements with Medicaid MCOs, as well as requirements stipulated in published provider manuals, are sufficient to make transportation services available to members and their attendants who rely on it. At this time, it is not necessary to make additional changes to the proposed Rule.

Same Day Trips

Rule §505. I.

Language contradicts the policy in the Medical Transportation Manual, and should be deleted. (*Medical Transportation Provider Manual, Chapter Ten of the Medicaid Services Manual, Section 10.2: NEMT - Services Access/Authorization, Page 4.*) We suggest that it be replaced with the following sentence.

When a recipient calls for same day service, the TDO will attempt to schedule the trip.

While the Department does not view this language as a contradiction, NEMT program staff will amend the provider manual to clarify this policy. The Medicaid program requires at least 48 hours of notice to schedule transportation. Last minute requests for transportation to medical appointments are administratively burdensome for providers, transportation vendors and for the Department. Therefore, these trips represent an increased cost to the public and it is necessary to prioritize individuals who have immediate medical needs.

We also suggest that the Department give consideration to a cost-saving policy change. In order to reduce the additional cost of an unnecessary extension of hospital and/or facility care, we recommend the following addition.
Same day trips shall be authorized for beneficiaries being discharged from hospitals or other facilities.

The Department concedes that time of discharge from hospitals or other medical facilities are often not known until the day of discharge and intends to clarify these provisions at a later date after giving more consideration to this matter.

Recipient/Attendant Appeals

Rule: §523.A.

In order to assure that the legal rights of beneficiaries and attendants are protected, we suggest that the following sentence be added.
The right to request a fair hearing of denials of travel expenses extends to those expenses for their attendants.

Rule: §523.B.

In order to assure that the legal rights of beneficiaries and attendants are protected, we suggest that the following sentence be added.
The right to request a fair hearing of denials of travel expenses extends to those expenses for their attendants.

The Department recognizes the need, in many cases, for an attendant to accompany Medicaid recipients when traveling to and from medical appointments. Since travel for an attendant is included as a "travel expense", we believe it is understood that, should service for an attendant be denied, a request for fair hearing would be honored. The Department will revisit this issue if we are made aware of evidence to the contrary.

Provider Enrollment

§541A.

In order to assure legally required accessible transport, we strongly recommend that the following language be added.

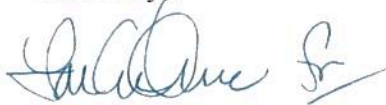
Providers must comply with all requirements of the Americans with Disabilities Act (ADA), including 42 USC 12812(b)(2)(C), and its implementing regulations, including 49 CFR 37.105. This includes the requirement that it is the responsibility of the provider, not the beneficiary, to have accessible vehicles. Accessible transport must be available on an equivalent basis as non-accessible transport.

The recommended language may be construed to require all NEMT providers to have wheelchair accessibility. It is not the intent of the Department to make wheelchair accessibility a requirement of all NEMT providers. The majority of Medicaid beneficiaries who utilize these services are ambulatory and require only a standard vehicle. Requiring all transportation providers to have wheelchair accessibility would create a hardship for those providers and possibly limit the availability of standard transport for non-wheelchair recipients.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jen Steele".

Jen Steele
Medicaid Director

CC/DAB/VYD

c: Jode Burkett
Lou Ann Owen